

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 624 of 2000

in

CIVIL APPLICATION No 14584 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

STATE OF GUJARAT

Versus

LILABEN K CHAMAR

Appearance:

Ms. Siddhi Talati, AGP for Appellants

MR RK MISHRA for Respondent No. 1

CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE D.P.BUCH

Date of decision: 29/11/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

The short, but interesting question which arises in this LPA under Clause 15 of the Letters Patent is, as to whether the confirmation of the award by the order of the learned Single Judge, dated 29.3.2000, in Civil Application No.14584/99 in Special Civil Application No.5829/98, whereby, the respondent-original petitioner succeeded and the appellant came to be directed to extend the benefits accruing and arising pursuant to the Government Resolution dated 17.10.1988, is justified or not, in the fact-situation of the present case. We have heard the learned AGP, Ms. Siddhi Talati and we have also dispassionately considered the record of the present appeal and, in our opinion, the impugned order of the learned Single Judge could not be shown to be, in any way, vulnerable or nothing has been spell-out from the record, which would warrant our interference in exercise of powers under Clause 15 of the Letters Patent.

2. Since we find that the impugned order requires no interference and we broadly agree with the views and the reasons assigned, in support of the order passed by the learned Single Judge, ordinarily, it would not be necessary to reiterate the same grounds and reasons, on which the order has been founded upon according to the settled proposition of law by appreciating the merits of the appeal. However, we may place it on record that the Government Resolution, dated 17.10.1988, confers benefits upon the various employees working with the various departments of the Government of Gujarat and also certain mandatory benefits upon the completion of length of temporary or daily wages work. The contention which is reiterated before us is that the original applicant-Laliben K Chamar, who comes from a very poor and lower strata of society, was working with the appellant-original respondent, the State of Gujarat in project construction Division No.1, Himatnagar since 1982. She continued to work until, 1.2.1991, when her services came to be terminated. There is no dispute about the fact that again she was employed from 1991 to 1995. The contention which is raised and repeated is with regard to the completion of the number of 240 days by the original petitioner-daily wager. On this point, which is a pure question of fact, the learned Single Judge has dealt with and upon critical evaluation and assessment of the facts, has reached to a conclusion that the original petitioner had worked for more than 240

days. This view taken by the learned Single Judge, could not be shown to be in any way unjust or unreasonable. Moreso, no evidence is produced by the department of the appellant-State of Gujarat in support of the plea that the petitioner had not completed 240 days. In absence thereof, the conclusion arrived at by the learned Single Judge could not be said to be erroneous or wrong. Apart from that, it is also a settled proposition of law that artificial break also would not come to the rescue of the Master in support of the plea of having not completed the requisite period of 240 days. We, therefore, find that the submission which is reiterated before us requires to meet with the same fate as it met with before the learned Single Judge. It is found to be unmeritorious. Again, the period from 1991 to 1995, during which the service of the original petitioner came to be terminated, is only directed to be treated to be continuous service without backwages. Therefore, also, we find no substance in the impugned order. Consequently, the impugned order is required to be confirmed and affirmed while rejecting this LPA at the very threshold. Accordingly it is rejected.

Before parting, it may be noted that the order of the learned Single Judge has yet not been implemented. The time granted by the learned Single Judge was 4 weeks. Under the circumstances, the appellant-original respondent State of Gujarat is hereby directed to comply with the order within a period of eight weeks from today.

29.11.2000 [J N Bhatt, J.]

[D P Buch, J.]

msh